

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

R & R PACKAGING, INC.

PLAINTIFF

v.

Civil No. 06-5175

GAP ROOFING, INC.; and
OMEGA PACKAGING, INC.

DEFENDANTS

O R D E R

Now on this 22nd day of August, 2007, come on for consideration Defendant GAP Roofing, Inc.,s Motion For Leave To File Amended Counterclaim And Cross-Claim (document #40) and Defendant GAP Roofing, Inc.'s Combined Motion Without Prejudice To Dismiss Counterclaim And Cross-Claim For Loss Of Business And Motion To Withdraw Its Motion For Leave To File Amended Counterclaim And Cross-Claim (document #46), and the Court, being well and sufficient advised, finds as follows:

It is clear from the pending motions that the action desired by defendant GAP Roofing, Inc. ("GAP") is the dismissal of claims for loss of business it has asserted against plaintiff R&R Packaging, Inc., and defendant Omega Packaging, Inc. While GAP asks for leave to amend its Counterclaim And Cross-Claim in order to accomplish this dismissal, there is no reason for amendment. The Court will, therefore, grant the requested dismissal and deny the requested leave to amend.

IT IS THEREFORE ORDERED that Defendant GAP Roofing, Inc.,s Motion For Leave To File Amended Counterclaim And Cross-Claim

(document #40) is **denied**.

IT IS FURTHER ORDERED that Defendant GAP Roofing, Inc.'s Combined Motion Without Prejudice To Dismiss Counterclaim And Cross-Claim For Loss Of Business And Motion To Withdraw Its Motion For Leave To File Amended Counterclaim And Cross-Claim (document #46) is **granted in part and denied in part**.

The motion is **granted** insofar as it seeks dismissal of GAP's Sixth Claim for Relief against R&R Packaging, Inc., and its Sixth Claim for Relief against Omega Packaging, Inc., both claims relating to loss of business allegedly sustained by GAP, and these claims are hereby **dismissed without prejudice**.

The motion is **denied** in all other respects.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE